



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/153891

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Racine County Department of Human Services in regard to Child Care, a hearing was held on February 04, 2014, at Racine, Wisconsin.

The issues for determination are whether Petitioner's appeal is timely as to a denial of an August 2013 child care application and whether the start date of child care benefits for a subsequent child care application was correctly determined.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County. Her household includes her minor daughter and that daughter's child.
2. Petitioner filed this appeal questioning why child care for the granddaughter had not been paid back to September 2013 but only began on October 27, 2013. Exhibit #1.
3. Petitioner applied for child care for the granddaughter in August 2013. That application was denied for lack of verification and Petitioner sent a Notice of Decision dated September 6, 2013 that

informed her of the denial. It included appeal instructions that indicated that the deadline for an appeal was October 21, 2013. The missing verification was apparently the school schedule for Petitioner's daughter.

4. This appeal was filed on December 2, 2013.
5. The verification request that Petitioner allegedly failed to comply with is dated August 27, 2013. It does not ask for a school schedule for Petitioner's daughter - only for her student status.
6. Petitioner again applied for child care in the later part of October 2013. Ultimately that application was approved and benefits began either in late October or as of November 1, 2013. It is not clear why it was not backdated to October 1, 2013.

DISCUSSION

There are two parts to this appeal – first the denial of Petitioner's August 2013 child care application and second, the beginning date of benefits for Petitioner's second application.

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. An appeal for the child care program must be filed within 45 days of notice of adverse action. *Wisconsin Shares Child Care Assistance Manual (Manual)*, §2.5.0.; also see *Wis. Adm. Code*, § HA 3.04(3).

This appeal was filed more than 40 days after the appeal deadline for the denial of the August 2013 child care application. Despite the fact that the verification request does not mention the school schedule that seems to have been, in whole or in part, the basis for the denial; this appeal is untimely as to that denial and the Division of Hearings and Appeals without authority to act as to that issue.

The appeal is timely as to the beginning date of benefits issue, first because there is no notice in the record indicting an appeal deadline and second because if benefits began in late October December 2 2013 (the appeal date) is within 45 days. The substance of this issue must therefore be addressed.

Case notes make apparent that again requested child care on October 23, 2013. Child care benefits were approved and started in late October or as of November 1, 2013. The Manual does, however, state that:

1.3.6 Eligibility Determination

Once the verification has been determined to be complete, the agency has seven (7) business days to determine eligibility. Eligibility may be backdated only to the first of the month of the application filing date, unless the applicant requested an intake appointment and was given an appointment for the following month; in this situation eligibility may be backdated to the first of the month that the agency received a signed request for child care assistance (RFA or DWSP-14880). *Manual with effective dates 6/8/12-12/9/13, emphasis in original.*

CONCLUSIONS OF LAW

1. That the Division of Hearings and Appeals does not have authority to make a determination on the merits of the denial of the August 2013 child care application as the appeal is untimely as to that issue.
2. That Petitioner's appeal is timely as to the start date of child care benefits for the October 2013 child care application.
3. That there is not enough evidence in the record to determine why Petitioner's October 2013 child care benefits did not begin as of October 1, 2013.

Now therefore, it is

ORDERED

That this case is remanded to the agency with instructions to redetermine the start date of Petitioner's child care based on the October 2013 child care application. This must be done within 10 days of the date of this Order. A new Notice of Decision must be sent to Petitioner and she may appeal from that Notice with the issue limited to the start date question.

In all other respects, this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of April, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 18, 2014.

Racine County Department of Human Services
Child Care Benefits